Supreme Court, U.S.
FILED
JUL 12 2001

No. 00-1260

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MARK JAMES KNIGHTS

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: FEB. 2, 2001
CERTIORARI GRANTED: MAY 14, 2001

TABLE OF CONTENTS

	Page
Docket entries, United States District Court for the Northern District of California	1
Docket entries, United States Court of Appeals for the Ninth Circuit	4
Indictment	7
Affidavit (William White, dated Mar. 23, 1999)	11
Declaration of Todd E. Hancock (dated July 4, 1999)	20
Transcript (dated Aug. 18, 1999)	25
NAPA County Sheriff's Department Investigation Bureau (98-1692)	35
NAPA County Sheriff's Department Investigation Bureau (98-1692)	41
Probation Order (dated May 29, 1998)	50

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO)

No. 99-CR-108-ALL

UNITED STATES OF AMERICA, PLAINTIFF

v.

MARK JAMES KNIGHTS; STEVEN SIMONEAU,
DEFENDANTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
3/23/99	1	COMPLAINT Mark James Knight (1) count(s) cmp Mag. Judge Elizabeth D. Laporte [3:99-m-30116] (lsk) [Entry date 03/25/99]
3/23/99	1	COMPLAINT Steven Simoneau (1) count(s) cmp Mag. Judge Elizabeth D. Laporte [3:99-m-30117] (lsk) [Entry date 03/25/99]
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
4/6/99	9	INDICTMENT by AUSA Martha A. Boersch. Counts filed against Mark James Knight (1) count(s) 1, 2, Steven Simoneau (2) count(s) 1, 3 (lsk) [Entry date 04/06/99]
		* * * * *
6/24/99	25	Notice of motion and MOTION before Judge Martin J. Jenkins to suppress seized evidence by defendant Mark James Knights (lsk) [Entry date 06/28/99]
		* * * * *
7/8/99	29	OPPOSITION by Plaintiff USA to motion to suppress seized evidence by defendant Mark James Knights [25-1] (lsk) [Entry date 07/12/99]
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
11/1/99	48	MINUTES: filed on 11/3/99 before Judge Martin J. Jenkins; status hearing will be held at 1:30 11/8/99 for Mark James Knights, for Steven Simoneau before Judge Martin J. Jenkins. Deft Simoneau motion to suppress granted/denied in part. Deft Knight motion to suppress granted/denied in part. Time excluded to next appearance. (C/R: Lydia Radovich) (lsk) [Entry date 11/04/99]
		* * * * *
11/8/99	52	NOTICE OF APPEAL by Plaintiff USA from Dist. Court decision minutes [48-2] as to defendant Mark James Knights, defendant Steven Simoneau Fee status Govt appeal (lsk) [Entry date 11/09/99]
		* * * * *

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 99-10538

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT

v.

MARK JAMES KNIGHTS, DEFENDANT-APPELLEE;
STEVEN SIMONEAU, DEFENDANT-APPELLEE

DOCKET ENTRIES

DATE	DOCKET ENTRY
	* * * * *
2/14/00	Filed original and 15 copies Appellant USA opening brief (Informal: no) 29 pages and five excerpts of record served on 2/8/00 [99-10538] (wp)
	* * * * *
3/28/00	Filed original and 15 copies appellee Mark James Knights's 34 pages [*sic*] brief, 5 supplemental Exc. served on 3/27/00 [99-10538] (wp)
3/30/00	14 day oral extension by phone of time to file Appellant's reply brief. [99-10538] appellants' reply brief due 4/27/00; (cb)

DATE	DOCKET ENTRY
	* * * * *
4/28/00	Filed original and 15 copies USA reply brief, (Informal: no) 15 pages; served on 4/27/00 [99-10538] (wp)
	* * * * *
7/11/00	ARGUED AND SUBMITTED TO William C. CANBY, Stephen R. REINHARDT, Ferdinand F. FERNANDEZ [99-10538] (sa)
8/3/00	FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written, Unsigned, Unpublished. William C. CANBY; Stephen R. REINHARDT; Ferdinand F. FERNANDEZ, author.) FILED AND ENTERED JUDGMENT. [99-10538] (wp)
	* * * * *
8/31/00	Filed original and 50 copies Appellant USA petition for rehearing with suggestion for rehearing en banc 19 p.pages, served on 8/31/00 PANEL AND ALL ACTIVE JUDGES [99-10538] (ft)
	* * * * *

DATE	DOCKET ENTRY
10/5/00	Filed order (William C. CANBY, Stephen R. REINHARDT, Ferdinand F. FERNANDEZ,): The petition for rehearing and petition for rehearing en banc are denied. [99-10538] (wp)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. CR-99-0108

UNITED STATES OF AMERICA, PLAINTIFF

v.

MARK JAMES KNIGHTS AND STEVEN SIMONEAU, DEFENDANTS

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 371 – Conspiracy)

On or about and between May 24, 1998, and June 3, 1998, both dates being approximate and inclusive, in the Northern District of California, and elsewhere, the defendants

MARK JAMES KNIGHTS and
STEVEN SIMONEAU

did knowingly and intentionally combine, conspire, and agree together, to commit the following offense against the United States: arson in violation of Title 18, United States Code, Section 844(i).

MANNER AND MEANS

a. It was part of the manner and means of the conspiracy that defendants Mark James Knights and

Steven Simoneau possessed ammunition, explosive powder, detonation cords, and other materials that could be assembled into pipe bombs or other explosive or incendiary devices with the intent to use those devices to destroy or damage property;

b. It was further part of the manner and means of the conspiracy that the defendants Mark James Knights and Steven Simoneau intended to use the explosive or incendiary devices to damage or destroy property owned by Pacific Gas & Electric Company in Napa County, California.

c. It was further part of the manner and means of the conspiracy that the defendants Mark James Knights and Steven Simoneau intended to use the explosive or incendiary devices to damage or destroy commercial property located in the City of Napa.

OVERT ACTS

2. In furtherance of this conspiracy and to effect and accomplish the objects of it, one or more of the conspirators committed the following overt acts:

a. On or about May 24, 1998, adjacent to a PG&E gas line located at Highway 29 and Zinfandel Lane, defendants Mark James Knights and Steven Simoneau were driving a red 1990 Toyota pick-up, which contained numerous pipes, pieces of chain, and other equipment, including gasoline.

b. On or about June 3, 1998, defendant Mark James Knights possessed numerous rounds of ammunition, including 173 rounds of M-60 machine gun ammunition with 34 rounds of tracer ammunition, 34 rounds of .32

caliber ammunition, and 38 rounds of nine millimeter ammunition; detonation cord; numerous books and manuals instructing in chemical reactions, physics, electronics, and assembly of circuit applications; chemical liquids; and various tools, including bolt cutters, metal levers, and a set of telephone pole climbing spurs similar to those used by utility workers.

c. On or about June 3, 1998, defendant Steven Simoneau possessed flammable liquids, containers labeled Pirodex black powder, a plastic bulb containing an explosive black powder, black electrical tape, a diagram of an electric device, shotgun shells, green colored fuse, cutting instruments, chains, locks indicating PG&E ownership, white pipe, pieces of wax, propane tanks with holes drilled in the side, and PG&E master keys.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO: (18 U.S.C. § 922(g)(1)—Felon in Possession)

On or about June 3, 1998, in the Northern District of California, the defendant

MARK JAMES KNIGHTS,

having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess ammunition, to wit, 173 rounds of M-60 machine gun ammunition with 34 rounds of tracer ammunition; 34 rounds of .32 caliber ammunition; and 38 rounds of nine millimeter ammunition, in and

affecting commerce, in violation of Title 18, United States Code, Section 922(g)(1).

COUNT THREE: (26 U.S.C. § 5861(d)—Possession of Unregistered Firearm)

On or about June 3, 1998, in the Northern District of California, the defendant

STEVEN SIMONEAU

knowingly received and possessed a firearm as defined in 26 U.S.C. § 5845(a)(8) and (f), to wit: a destructive device (Molotov cocktail), which was not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d), and 5871.

DATED: A TRUE BILL.

_____
FOREPERSON

ROBERT S. MUELLER, III
United States Attorney

/s/ [Illegible]
DAVID W. SHAPIRO
Chief, Criminal Division

(Approved as to form: /s/ M. Boersch)
AUSA BOERSCH

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

AFFIDAVIT

I, William White, after being duly sworn, do state the following:

1. I have been a sworn California Peace Officer since 1973 and since 1996 have been employed with the Napa County District Attorney's Office as an investigator assigned to crimes against persons.

2. The information contained in this affidavit is based upon my own investigation as well as upon information I learned from other law enforcement officers, including Detective Todd Hancock of the Napa County Sheriff's Office.

BACKGROUND

3. On March 1, 1996, Mark Knight resided at 2164 Ethel Porter Drive within the unincorporated area of Napa County, California. On that date Pacific Gas & Electric Company disconnected Mr. Knight's power service due to nonpayment of his monthly bill. On March 4, 1996, PG&E personnel removed the electric meter and disconnected the service wires at the pole location due to an illegal electrical bypass connected at the weather head on top of the roof at 2164 Ethel Porter Drive.

4. PG&E reported a total loss at the time of $1,157.65 billed to Mark Knight. A complaint was filed with the Napa County District Attorney's Office on

May 21, 1996 requesting charges of California Penal Code 498, theft of utility services of over $400.00, a felony.

5. Between September 3, 1996, and June 2, 1998, PG&E investigators reported over thirty vandalisms to PG&E property located in Napa, California. The last instance, on June 2, 1998, was an arson fire at a PG&E and Pacific Bell telecommunications vault located on Devlin Road near the Napa County Airport, which caused power and telephone loss for several thousand customers.

6. On May 24, 1998 Mark Knight and Steven Simoneau were stopped by an on duty Napa County Sheriff's Deputy adjacent to a PG&E gas line located at Hwy. 29 and Zinfandel Lane. Simoneau's vehicle, a red 1990 Toyota pick-up contained numerous pipes, pieces of chain, and other equipment, including gasoline. A request by the deputy to search a vehicle was refused and both Knight and Simoneau were released.

7. On the weekend of May 30-31, 1998 a business located at 550 Main Street, known as the Hatt Building, was burglarized. Photographs and blueprints were taken and the Napa Police Department took a burglary report. Approximately during this time a pipe bomb was detonated at the exterior of the Hatt Building utilizing Pirodex smokeless powder and a detonation cord. Evidence recovered from the scene was booked to evidence and referred to the ATF for analysis. At the time of the arson fire to the Pacific Bell and PG&E vaults and the burglary and detonation of the explosive device at the Hatt Building, Mark Knight resided at 538 Brown Street, Apt. 6, Napa. This apartment is

approximately 600 feet south of the Hatt Building and the location of the exploded pipe bomb.

8. On May 8, 1996, Mark Knight was arrested by Napa County Sheriff's deputies for felony threats (422 of the California Penal Code), possession of a firearm (12021(a)(1) of the California Penal Code), and possession of an explosive devise to wit a pipe bomb (violation of 12303 of the California Penal Code). In that instance the former girlfriend of Mark Knight reported an "unwanted subject" at 2164 Ethel Porter Drive. She identified the subject as Mark Knight. According to her report, Mark Knight fled prior to deputies arriving. Deputies subsequently located the pipe bomb and the projectile explosive weapon in the back yard of the residence. The case was forwarded to the Napa County District Attorney for prosecution.

9. On August 14, 1996 deputies responded to 2163 Ethel Porter Drive to investigate a reported explosion in the area. Deputies located evidence of an exploded pipe bomb at 2164 Ethel Porter, the residence of Mark Knight. Deputies recovered remnants of an exploded pipe bomb in the street nearby. Evidence was submitted for latent finger print development with no useable prints developed. No charges were filed on this case.

THE JUNE 3, 1998 SEARCH OF 538 BROWN STREET, APT. 6, NAPA, CA

10. At approximately 0435 hrs. on June 2, 1998, a PG&E power transformer and a Pacific Bell controlled environmental vault located on Devlin Road and servicing the Napa County Airport Facility were pried open. An incendiary device using a gasoline accelerant

was used to ignite a fire within the Pacific Bell Vault causing an estimated 1.5 million dollars in damage and eliminating telephone service to the airport area. Access was gained to these two facilities by moving the brass padlocks located on the external areas and prying them off with an unknown means. The locks were not located at the scene.

11. Based upon the above information and the June 2 arson of the Pacific Bell and PG&E vaults located at the Napa County Airport, Mark Knight and Steven Simoneau were considered potential suspects. A surveillance was initiated of 538 Brown Street, the residence of Mark Knight.

12. On June 3, 1998 at approximately 0145 hours Detective Todd Hancock of the Napa County Sheriff's Department observed the 1990 red Toyota pick-up known to belong to Steve Simoneau approach the exterior of 538 Brown Street and park. Detective Hancock observed subjects known to him as Steven Simoneau and Mark Knight exit the vehicle, Simoneau from the driver's door and Knight from the passenger's door. Detective Hancock observed Simoneau remove items from the bed of the truck and both Knight and Simoneau enter the apartment complex. Shortly after Detective Hancock observed the light to Knights upstairs apartment illuminate. At approximately 0310 hours Detective Hancock observed the light turn off.

13. Detective Hancock then observed Steven Simoneau exit the building and approach his vehicle. Simoneau was carrying three cylinder shaped objects approximately three feet in length and cradled in his arms, as well as an object resembling a jar. Simoneau approached the rear of his vehicle and placed the jar

within the bed of the pickup truck. Simoneau then walked across the street to the banks of the Napa River carrying the cylinder shaped items, and while Simoneau was temporarily out of Detective Hancock's line of sight, Detective Hancock distinctly heard the sounds of three splashes coming from the area that he observed Simoneau near the Napa River. Approximately 20 seconds later, Simoneau reentered my line of sight and Detective Hancock noticed that he was no longer carrying the cylinder shaped items.

14. Detective Hancock watched Simoneau again approach his truck and pick up an object that resembled a glass jar from the bed of the truck. Detective Hancock observed him wipe off the jar with a white cloth towel or T-shirt and replace the jar into the bed of the truck. He then observed Simoneau enter the driver's side of the vehicle, start the truck and drive away.

15. Detective Hancock followed Simoneau to an area in a rural unincorporated area of Napa County where he observed Simoneau pull into a driveway located at 5150 Wild Horse Valley Road. Simoneau was known to do part time work and/or reside occasionally at that address. Detective Hancock contacted patrol units to report to that area and approximately twenty minutes later they located the red Toyota truck belonging to Steven Simoneau parked in the driveway of 5150 Wild Horse Valley Road. Simoneau was not present. A subsequent search for Simoneau was fruitless.

16. Within the open bed of the truck in plain view Detective Hancock observed a clear, glass jar containing a cloudy liquid substance and noted that a white cloth was inserted into the liquid and protruded from

the top of the bottle. Detective Hancock smelled the distinctive odor of gasoline emanating from the area of the bottle. He recognized the device from training and experience as an explosive device commonly referred to as a Molotov cocktail. In plain view on the floor of the truck cab on the passengers side he observed two brass padlocks, which appeared similar to the type described by Pacific Bell and PG&E representative as having been used to secure the utility boxes involved in the arson incident on Devlin Road in Napa County near the airport. Explosive experts were called to the scene and the suspected explosive devices was rendered safe and the vehicle was then impounded and a search warrant was subsequently prepared for the search of the vehicle.

17. Believing additional evidence would be contained within the residence of Mark Knight and knowing that Mark Knight had a previous history of possessing explosive devices and fleeing from law enforcement personnel, Detective Hancock believed that the potential for Mark Knight to dispose of or destroy evidence was substantial.

18. Knowing that Mark Knight was currently on felony probation with the county of Napa and was required to submit his person, vehicle, or residence to search and seizure by any time by law enforcement personnel with or without probable cause, Detective Hancock and others returned to Mark Knight's residence at approximately 0800 hours for the purpose of conducting a probation search. Upon entry Mark Knight was located lying in bed with a female identified as Kathy Brown.

19. A subsequent search of the residence, described as a single room apartment, with no plumbing facilities, triangular in shape, approximately 12-14 feet at its longest point and 10 feet wide, was conducted. Located within the residence were items seized as evidence including a coil of pink detonation cord, commonly used to initiate explosive reactions. Detective Hancock observed that the detonation cord was similar to remnants of cord recovered from the bombing two nights previous at the Hatt Building. Also located within the apartment were numerous rounds of ammunition including 173 rounds of M-60 machine gun ammunition, including 34 rounds of tracer ammunition, 34 rounds of .32 caliber ammunition, and 38 rounds of nine millimeter ammunition. There were numerous books and manuals instructing in chemical reactions, physics, electronics, and assembly of circuit applications was found within the residence, as well as, large two-gallon bottles containing unknown chemical liquids. A worktable was located containing numerous wire clippings, tools and other items, as well as, miscellaneous electronic parts. Also located within the residence were bolt cutters, metal levers, and a set of telephone pole climbing spurs similar to those used by utility workers. Drug paraphernalia was located within the residence, including two glass pipes with burnt residue. Stolen property was located within the apartment, including the photograph album, prospectus, and blue prints identified as having been taken from the Hatt Building on June 1, 1998. Additionally, property from numerous commercial burglaries was located within the residence. Mark Knight was subsequently placed under arrest and booked into the Napa County Jail on three count of possession of stolen property (PC 496 - felony), two counts of possession of an explosive device

(PC 12303 - felony), felon in possession of ammunition (12316(b)(1) PC - felony), violation of probation (1203.1 PC - misdemeanor), possession of drug paraphernalia (11364 H&S -misdemeanor), and possession of material with intent to make explosives (12312 PC - felony).

20. A subsequent search warrant on the vehicle belonging to Steven Simoneau recovered flammable liquids, containers, labeled Pirodex black powder, plastic bulb containing an explosive black powder, black electrical tape, diagram of an electric device, shotgun shells, green colored fuse, cutting instruments, chains, locks indicating PG&E ownership, white pipe, pieces of wax, propane tanks with holes drilled in the side, and PG&E master keys. Charges were filed against Steven Simoneau for possession of a Molotov cocktail (1301(5) PC - felony), possession of a destructive device with the intent to destroy property (12303.3 PC - felony), transportation of a destruction device (12303.6 PC), possession of a material with the intent to manufacture explosives (12312 PC - felony), and transportation of explosives and hazardous material (31600 & 3200.5 VC - felony).

21. According to PG&E Investigator Bill Beeson, there have been no reported vandalism or arsons to PG&E sites or equipment since the arrest of Mark Knight and Steven Simoneau.

22. On March 23, 1999, I spoke to Special Agent Robert Shirley from the Bureau of Alcohol, Tobacco & Firearms. He informed me that the ammunition seized from Mark Knight's residence, to wit 173 rounds of M-60 machine gun ammunition, including 34 rounds of tracer ammunition, 34 rounds of .32 caliber ammunition,

and 38 rounds of nine millimeter ammunition, was all manufactured outside the State of California.

23. On March 23, 1999, I spoke to ATF Special Agent Robert Griego who informed me that that the Bureau of Alcohol, Tobacco & Firearms has no record that Steven Simoneau or Mark Knight registered any firearm, as defined in 26 U.S.C. § 5845(a) and (f).

24. On February 24, 1999, I retrieved copies of court documents showing that Mark Knight was convicted of the felony offense of sale and transportation of marijuana on October 4, 1990, and that Steven Simoneau was convicted of the felony offense of sale of cocaine on October 24, 1989.

_____
WILLIAM WHITE

Sworn and subscribed Before me

This 23 day of March 1999

__ILLEGIBLE_____
United Sates Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. CR-99-0108-MJJ

UNITED STATES OF AMERICA,
PLAINTIFF

v.

MARK JAMES KNIGHTS AND STEPHEN SIMONEAU,
DEFENDANTS

DECLARATION OF TODD E. HANCOCK

I, Todd E. Hancock, declare and state that:

1. I am a Detective in the Napa County Sheriff Department where I have been employed for the past ten years.

2. Attached as *Exhibit A* is a copy of my report summarizing the probation search I conducted on June 3, 1998 at 538 Brown Street, Apartment 6 in Napa, California. Prior to searching this apartment, I was aware that Mark Knights (hereinafter Knights) was on probation for a felony narcotics conviction in Napa County, and that his residence was subject to search at any time, with or without a warrant, warrant of arrest or probable cause, by any probation officer or law enforcement officer. I did not contact the Probation Office prior to conducting the search because my training and experience is that I can lawfully conduct a probation search of a probationer's residence who is

subject to a search condition under California law without prior contact with or approval from the probationer's probation office/officer. Moreover, because Knights was on summary probation, there was no probation officer specifically assigned to Knights that I could contact. At the time I did the probation search of Knights' apartment, I believed there was probable cause to obtain a warrant to search Knights' apartment based upon my ongoing investigation of his criminal activities with Stephen Simoneau (hereafter Simoneau), including my surveillance observations as set forth in my report attached as *Exhibit B*. If I had not opted to conduct the probation search of the apartment, I would have written a search warrant for the apartment, as I did for Simoneau's pick-up truck. When I executed the probation search of the apartment, I was accompanied by local officers and there were no federal agents present nor had I consulted with any federal agents about the case or the search.

3. On June 16, 1998, I did a follow-up probation search of Knights' apartment. Attached as *Exhibit C* is my report of that search.

4. My reports that are attached as *Exhibits A, B,* and *C* are accurate to the best of my knowledge, except that I refer to Knights as "Knight" in these reports.

5. With respect to the towing and impounding of Simoneau's truck on June 3, 1998, I do not recall the exact time that I left the area of 5150 Wild Horse Valley Road. My best recollection is that I left that area at approximately 5:00 a.m. and went back to the Sheriff's Department preparatory to going to Knights' apartment for the probation search that morning.

6. When a vehicle is impounded the Sheriff's Department, it is standard procedure to inventory the contents of the vehicle.

7. With respect to the warrant that I obtained for Simoneau's truck, I believed the warrant was valid and I relied upon the warrant in searching the truck. Instead of applying for a search warrant for the truck, I believed that I could have lawfully searched the truck without a warrant after seeing a Molotov cocktail in plain view in the bed of the truck, and two PG&E/ PacBell type padlocks in plain view on the floor of the truck.

8(a). Attached as Exhibit 1 is a copy of the search warrant for Simoneau's truck, and my statement of probable cause for the issuance of the warrant. I did not intentionally omit from my statement of probable cause any information that I felt was material to the issuance of the warrant. In particular, I did not regard the area of the dirt road where Simoneau left his truck on the morning of June 3, 1998, to be part of the "curtilage" of the Wrights' residence that is further up the road.

8(b). On the last page of my statement of probable cause, I stated that an explosives expert from the California Department of Forestry was called and responded. This statement is true; the expert was Greg Smith who is a supervising investigator bomb technician. I also stated that numerous explosives and incendiary devices were recovered from the bed of the pick-up truck. This statement is also true. The items that I believed fit this description included a Molotov cocktail; two containers of black pyrodex (black powder); a bulb containing what appeared to be black

powder; and a brown glass jar containing unknown crystal material.

9. AUSA George Bevan has told me that Simoneau is arguing in his motion to suppress that items were seized from Simoneau's truck that were not included in the warrant. Items of jewelry were seized as potential evidence of theft. A shotgun shell was seized as evidence because Knights and Simoneau are convicted felons, prohibited from possessing ammunition. I had seen Knights in the truck on the morning of June 3, 1998. The wax, gray tape, red tape, red tank, green tank, corrosion tape, seal, and a come-along were seized as potential evidence of Knights' and Simoneau's criminal activities involving explosives and related conduct, including the PGE/PacBell vandalisms and arson.

10. On or about August 5, 1998, I participated in the search of a Ford station wagon that I was advised by Napa police had been involved in a hit-and-run accident while being driven by Simoneau, and that Simoneau had left the scene of the accident. I was further advised that the car was going to be towed and impounded by Napa police in connection with their investigation of the accident. I was called to the location of the car because of my ongoing investigation of Simoneau.

11. Attached as *Exhibit E* is a copy of a parcel map from the Napa County Assessor's office which I have been advised by Napa Police Detective Joe Matulich, depicts the dirt road that begins on Wild Horse Valley Road and winds to the right to the Wrights' residence. I have circled the approximate location on the road where Simoneau left his truck in the early morning of

June 3, 1998. Simoneau's truck was visible from Wild Horse Valley Road, a public street.

I declare under penalty of perjury that the foregoing statements are true to the best of my recollection.

Executed this 4 day of July, 1999, in Napa, California.

TODD E. HANCOCK

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

No. 99-CR-108-ALL

UNITED STATES OF AMERICA, PLAINTIFF

v.

MARK JAMES KNIGHTS; STEVEN SIMONEAU, DEFENDANTS

TRANSCRIPT

[August 18, 1999]

* * * * *

[176]

Q. OKAY. AND DID YOU CONFIRM WHETHER OR NOT HE WAS ON SUMMARY OR FORMAL PROBATION?

A. I CONFIRMED THAT HE WAS ON SUMMARY PROBATION.

Q. AND DO YOU HAVE AN UNDERSTANDING, SIR, AS TO WHETHER IF YOU'RE ON SUMMARY PROBATION, THERE'S A PROBATION OFFICER ACTUALLY ASSIGNED TO THE PERSON?

A. IT'S MY UNDERSTANDING THAT THERE IS NOT.

Q. DID YOU EXECUTE THE PROBATION SEARCH TO GET AROUND THE WARRANT REQUIREMENT?

MS. FOX: OBJECTION, YOUR HONOR, LEADING.

THE COURT: I'LL SUSTAIN THE OBJECTION. YOU CAN ASK IT AGAIN.

BY MR. BEVAN:

Q. WHY DID YOU DO A PROBATION SEARCH RATHER THAN OBTAINING A WARRANT?

A. I BELIEVE THAT THERE WAS SIGNIFICANT EXIGENCY IN CONDUCTING A SEARCH OF MR. KNIGHTS' APARTMENT AS SOON AS POSSIBLE. I KNEW THAT HE WAS ON PROBATION WITH A SEARCH-AND-SEIZURE CLAUSE AND UTILIZED THAT TO CONDUCT THE PROBATION [177] SEARCH IN AN EXPEDIENT MANNER.

Q. OKAY. AND AT WHAT POINT—OR HAD YOU DONE ANY PREPARATION FOR THE PROBATION SEARCH PRIOR TO DOING A SURVEILLANCE THAT MORNING?

A. THE PREVIOUS DAY.

Q. AND WHAT HAD YOU DONE BY WAY OF PREPARING TO DO A PROBATION [177] SEARCH?

A. PREPARED AN OPERATION ORDER AND OBTAINED THE PERMISSION OF MY DIRECT SUPERVISOR TO UTILIZE PERSONNEL TO ASSIST.

Q. OKAY. SIR, IF MY KNIGHTS HAD NOT BEEN ON PROBATION, WOULD YOU HAVE DONE ANY-

THING DIFFERENT WITH RESPECT TO YOUR INVESTIGATION?

A. YES.

Q. WHAT WOULD THAT HAVE BEEN?

A. I WOULD HAVE OBTAINED OR ATTEMPTED TO OBTAIN A SEARCH WARRANT TO ALLOW US TO ENTER AND SEARCH HIS APARTMENT.

Q. AND WITH RESPECT TO THE OBTAINING A SEARCH WARRANT FOR THE TRUCK, HAD YOU RECEIVED TRAINING AT SOME POINT AS TO WHETHER OR NOT A WARRANT WAS REQUIRED TO SEARCH A VEHICLE WHERE CONTRABAND WAS FOUND?

A. YES.

Q. AND DID YOU HAVE ANY KNOWLEDGE AS TO WHETHER A WARRANT WAS OR WAS NOT REQUIRED TO SEARCH A VEHICLE?

A. IT'S MY UNDERSTANDING THAT A WARRANT WAS NOT NECESSARY.

Q. OKAY. AND SO WHY DID YOU GET A WARRANT FOR THE TRUCK?

A. BECAUSE I WANTED TO BE THOROUGH AND COMPLETE AND BEING ABOVE THE LAW ON THIS.

Q. WELL, YOU SAY "ABOVE THE LAW." YOU MEAN—

A. I HESITATED USING THAT WORD, BECAUSE I'M TRYING TO THINK OF A CORRECT

PHRASEOLOGY. BUT TO MAKE SURE THAT EVERYTHING WAS ACCURATE AND AS LEGAL AS POSSIBLE TO SEARCH THE VEHICLE.

[183]

* * * * *

MR. KNIGHTS WAS STILL ON FELONY PROBATION AT THE TIME WITH SEARCH AND SEIZURE AS A CONDITION OF THAT PROBATION, AND WE WENT BACK IN WITH THE AUTHORITY OF THAT PROBATION ORDER.

Q. OKAY. NOW, YOU HAD MENTIONED—JUST TO GO BACK FOR A MOMENT ON THE JUNE 3RD PROBATION SEARCH. AND YOU INDICATED, SIR, THAT YOU HAD EXIGENT CIRCUMSTANCES, AT LEAST YOU THOUGHT ABOUT THAT; IS THAT CORRECT?

A. YES, SIR.

Q. NOW, I BELIEVE YOU MENTIONED THAT YOU HAD ACTUALLY HAD STATIONED A DEPUTY AT MR. KNIGHTS' APARTMENT; IS THAT TRUE?

A. YES.

Q. SO WOULDN'T IT BE A FAIR STATEMENT TO SAY THAT ANOTHER OPTION COULD HAVE BEEN TO HAVE SOMEONE SECURE THE RESIDENCE AND OBTAIN A WARRANT? ISN'T THAT TRUE?

A. YES.

Q. YOU'VE DONE THAT IN OTHER SITUATIONS?

A. YES.

Q. OKAY. AND SO THE DEPUTY WAS STATIONED THERE IN THE VICINITY OF THE APARTMENT; IS THAT CORRECT?

A. YES.

Q. WITH RESPECT TO THE AUGUST 5TH SEARCH OF THE FORD WAGON, DID YOU REMOVE ANY ITEMS FROM THE STATION WAGON?

A. YES, SIR.

Q. WHAT DID YOU REMOVE, SIR?

A. A HANDWRITTEN LETTER.

[218]

* * * * *

EXACTLY DOES THAT MEAN? WHAT DID YOU DO?

A. I ASKED DETECTIVE GENE DONALDSON TO RESPOND TO 538 BROWN STREET AND MAINTAIN OBSERVATION OF THE APARTMENT.

Q. DID YOU DO ANYTHING ELSE WITH RELATION TO SURVEILLANCE?

A. NO.

Q. THEN YOU ALSO TESTIFIED THAT YOU BEGAN TO GET TOGETHER THE PERSONNEL AND THE ITEMS IN ORDER TO CONDUCT THE SEARCH?

A. YES.

Q. AND WHAT DID THAT INVOLVE? WHAT DOES THAT MEAN THAT YOU DID?

A. BEING BETWEEN 5:00 AND 8:00 IN THE MORNING, THERE WERE NO OTHER PERSONNEL WORKING AT THE TIME, SO I HAD TO WAKE PEOPLE UP AND GET THEM TO THE OFFICE FOR A BRIEFING AND TO BRIEF THEM ON THE SITUATION, WHAT THE MISSION WAS AND TO GATHER THE APPROPRIATE MATERIAL TO DO THE SEARCH.

Q. WAS IT DURING THAT TIME THAT YOU ALSO PREPARED THE—DID YOU DO ANY PREPARATION TO THE OPERATION ORDER AT THAT TIME?

A. NO, MA'AM.

Q. THAT WAS PREPARED THE DAY BEFORE?

A. YES, MA'AM.

Q. DETECTIVE, WITH REGARD TO THE ISSUE OF MR. KNIGHTS BEING ON PROBATION, HOW DID YOU LEARN THAT MR. KNIGHTS WAS ON PROBATION?

A. THE PROBATION RECORDS ARE KEPT AT THE SHERIFF'S DEPARTMENT ACROSS THE HALL FROM MY OFFICE. I WENT OVER THERE, DID A SEARCH OF MR. KNIGHTS' NAME, RETRIEVED HIS PERSONAL [219] IDENTIFICATION NUMBER, AND VIEWED THE ASSOCIATED FILE, AND VIEWED THE MOST CURRENT PAPERWORK ASSOCIATED WITH HIS PROBATION STATUS.

Q. BEFORE YOU WENT OVER THERE, DID YOU HAVE ANY IDEA ABOUT WHETHER HE WAS OR WAS NOT ON PROBATION?

A. I DON'T RECALL.

Q. HAD YOU BEEN IN CONTACT WITH THE DISTRICT ATTORNEY'S OFFICE AT ALL ABOUT ANY CRIMINAL ACTIONS AGAINST MR. KNIGHTS?

A. NO.

Q. AND WHEN YOU REVIEWED THE FILE, DO YOU REMEMBER WHAT, IN FACT, HE WAS ON PROBATION FOR?

A. I BELIEVE IT WAS A NARCOTICS VIOLATION.

Q. AND THIS FILE, JUST TO BE CLEAR, IS IT THE PROBATION OFFICE'S FILE OR WHOSE FILE IS IT THAT YOU REVIEWED?

A. IT IS THE SHERIFF'S DEPARTMENT'S FILE WITH COURT PAPERWORK FOR ANY COURT PROCEEDINGS THAT OCCUR IN NAPA COUNTY RELATING TO PROBATION. THIS ENABLES OUR RECORDS CLERKS TO DO PROBATION CHECKS ON PEOPLE AFTER HOURS. IF ONE OF THE DEPUTIES STOPS SOMEBODY ON THE ROAD AND CALLS IN, THEY CAN CHECK PROBATION STATUS THAT WAY.

Q. OR AS IN THIS CASE, IF YOU'D LIKE TO CONDUCT A SEARCH WITHOUT A WARRANT, YOU CAN GO AND DETERMINE WHETHER OR NOT SOMEBODY IS ON PROBATION SUBJECT TO A SEARCH CONDITION; CORRECT?

A. YES.

* * * * *

[223]

A. THE LANDLORD OF 538 BROWN STREET?

Q. YES.

A. YES, MA'AM.

Q. AND DID YOU HAVE CONVERSATIONS WITH HIM TO DETERMINE OR REGARDING MR. KNIGHTS' RESIDENCE AND WHERE HE RESIDED?

A. YES.

Q. AND BASED ON YOUR CONVERSATIONS WITH HIM, WERE YOU ABLE TO ASCERTAIN THAT MR. KNIGHTS DID HAVE A LEASE TO RENT AN APARTMENT ON BROWN STREET?

A. I DON'T THINK I TALKED WITH HIM ABOUT THAT. I ASKED HIM IF HE RESIDED THERE OR RENTED THERE, AND HE TOLD ME HE DID.

Q. AND WERE YOU ABLE TO ASCERTAIN THAT MR. KNIGHTS WAS THE SOLE OCCUPANT OF THAT—SOLE OFFICIAL OCCUPANT OF THAT APARTMENT?

A. YES.

Q. AND THAT'S WHY YOU SWORE OUT IN THE SEARCH WARRANT AFFIDAVIT THAT IT WAS SOLELY OCCUPIED BY MR. KNIGHTS?

A. YES.

Q. ON THE TIME OF THE FIRST SEARCH, THE JUNE 3RD SEARCH OF BROWN STREET, YOU AND THE OTHER OFFICERS HAD TO BREAK INTO THE BOTTOM DOOR; IS THAT CORRECT?

A. YES.

Q. AND THAT'S THE OUTSIDE DOOR ON THE WESTERN SIDE OF THE BUILDING?

A. IT'S A SHARED DOOR FOR THE ENTIRE COMPLEX.

[224]

Q. AND HOW DID YOU GET THROUGH THE LOCKS ON THAT DOOR?

A. I DON'T RECALL IF ONE OF THE OTHER OFFICERS KICKED THE DOOR OR IF HE USED A RAM.

Q. BUT THAT DOOR WAS SOMEHOW BROKEN DOWN?

A. YES, MA'AM.

Q. WHEN YOU GOT UP TO THE SECOND DOOR ON THAT FIRST SEARCH, YOU DIDN'T NEED TO BREAK IT DOWN; IS THAT CORRECT?

A. NO, MA'AM.

Q. WAS THE DOOR UNLOCKED?

A. YES.

Q. AND THEN YOU CAME BACK AGAIN IN JUNE, LATER ON JUNE 16TH?

A. YES.

Q. AT THAT TIME DID YOU AGAIN BREAK DOWN THE BOTTOM DOOR?

A. NO.

Q. HOW DID YOU GET IN THAT TIME?

A. MR.—I DON'T RECALL IF MR. GOMEZ WAS THERE AT THAT POINT. I BELIEVE THAT HE WAS BUT SOMEONE WAS THERE THAT HAD THAT DOOR OPEN.

Q. I'M SORRY. THAT WASN'T CLEAR. SOMEONE WAS THERE WHO OPENED THE DOOR FOR YOU?

A. THE DOOR WAS OPEN WHEN WE ARRIVED.

Q. THE DOOR HAD ALREADY BEEN OPENED?

A. YES, MA'AM.

Q. SO YOU WERE ABLE TO GET IN THAT WAY?

A. YES, MA'AM.

NAPA COUNTY SHERIFF'S DEPARTMENT
INVESTIGATIONS BUREAU
1125 THIRD STREET, NAPA, CA 94559

Case: 98-1692

NAT CODE: PAGE 1 OF 3

06-02-98 INCIDENT/CRIME CLASSIFICATION
451, 459 P.C.

REPORT AREA

TIME LOCATION OF OCCURRENCE:
Gateway Road West & Devlin Road

CODE:
Suspects

NAME, LAST, FIRST, MIDDLE (FIRM OF BUSINESS):
Mark J. Knight and Stephen A. Simoneau

SURVEILLANCE/RECOVERY OF SUSPECT VEHICLE

On June 3, 1998, at 2400 hrs., based upon investigation, a possible suspect in this arson case was identified as Mark Knight, further described as

MARK J. KNIGHT
DOB 11-28-64
6-9, 280, Brn-Hzl
538 Brown Street, #6, Napa

Previous investigation indicated that Knight was a suspect in prior vandalisms and arsons in Pacific Gas & Electric, based on Knight's long-standing grudge

against PG & E stemming from a prior theft of services complaint made against Mark Knight by PG & E investigations.

I discovered that Mark Knight had recently been placed on summary probation for 11550 H&S, with search and seizure ordered as a condition of that probation. I learned that Mark Knight lives at 538 Brown Street, Apartment #6, within the City of Napa. I also learned that on a prior occasion Knight had been seen in the company of a subject identified as Stephen Simoneau, further described as:

STEPHEN ANDREW SIMONEAU
DOB 01-31-64
5-11, 165, Brn-Gra
Transient

On 05-24-98 at 2201 hrs., Mark Knight was seated in the passenger seat of Simoneau's 1990 red Toyota pick-up truck (CAL Lic 4C53487), was contacted by Dep. M. Hunter. Knight and Simoneau, who was driving, were observed parked near a main PG & E gas line which was located at Hwy. 29 and Zinfandel Lane. When questioned they had no reasonable explanation as to their presence at that location. At the time, Dep. Hunter noted that the vehicle contained numerous chains and tools, along with cans of gasoline.

In conducting an internal records check, it was discovered that incidents of vandalism and arson against Pacific Gas & Electric facilities had occurred within two or three days of Mark Knight's court appearance dates associated with the PG & E theft of services case. Most recently, on 05-29-98, Mark Knight appeared in Napa County Municipal Court and was

sentenced to 90 days in jail with a remand date of 07-03-98.

Based upon the above information and the concurrence of the Devlin Road arson fire to Knight's most recent court appearance date, a surveillance was authorized and initiated for Knight's residence at 538 Brown Street, Apartment #6.

On 06-03-98 at approximately 0005 hrs., I initiated surveillance that on the residence of Mark James Knight. I observed that the apartment belonging to Mark Knight was dark and the vehicle associated with Knight (the 1990 red Toyota pick-up truck) was not present. At approximately 0145 hrs, I observed that vehicle approach the residence and park along the Riverside aspect to the apartment building.

I observed a suspect who I recognized as Stephen Simoneau exit the driver's door of that Toyota truck and a subject I recognized as Mark Knight exit the passenger door. Simoneau remained next to the driver's door while Knight removed two items that I recognized as being house doors from the bed of the pick-up truck and place them along the side of the apartment building. He then took a box containing unknown items and also placed them along the side of the building.

Knight and Simoneau walked around the front of the building and entered the southern-most door on the Brown Street side, which had previously been identified to me as the door leading to Knight's apartment. I noted that, upon the suspects entering the door, the lights for the apartment on the southern-most (River-

side) street aspect were turned on. These lights remained on until approximately 0310 hrs.

At that time I observed suspect Simoneau exit the building and approach his vehicle. I observed Simoneau carrying three cylinder-shaped items, approximately 3 ft. in length, cradled in his arms. I observed Simoneau approach his vehicle and put into the bed of the vehicle an object resembling a jar. Simoneau then walked across Riverside Street toward the Napa River, briefly exiting my line of sight. From my position, approximately 50 yds. away, I distinctly heard the sound of three (3) splashes coming from the area next to the river where Simoneau was.

After approximately 20 seconds Simoneau re-entered my line of sight and I observed that he was no longer carrying anything. I believe that suspect Simoneau threw into the Napa River the objects he had been carrying in his arms. Simoneau re-approached his red Toyota pick-up truck and removed from the bed of that truck what appeared to be a glass jar; he then produced a white towel or tee shirt from the truck-bed and wiped the exterior of the jar before replacing both items in the bed of the truck. I observed Simoneau then unload the driver's door, enter and start the vehicle.

Simoneau made a U-turn and proceeded north on Riverside to Brown Street. I followed Simoneau as he passed by the Sheriff's Department on Main Street and turned right onto Third Street. I continued to follow Simoneau as he drove down Third Street onto Coombsville Road and out into the unincorporated Napa County area. I observed suspect Simoneau turn left into a driveway marked at 5150 Wild Horse Valley Road. I knew from previous discussions with Napa

Police Department Officer D. Peecook that Simoneau is known to do work at that Wild Horse Valley Road address.

I waited approximately 20 minutes for suspect Simoneau to exit the driveway. When, after 20 minutes had elapsed and Simoneau had not left, I notified patrol officers from the Napa County Sheriff's Department who responded and located the vehicle belonging to Simoneau parked and unoccupied approximately 40 yds. north of Wild Horse Valley Road on the driveway associated with 5150. Because we believed that Simoneau may be attempting to commit a crime in the area, we conducted a sweep of the surrounding area for suspect Simoneau, with negative results.

Within the bed of the truck, near the front of the bed, I observed a clear glass jar containing a cloudy liquid substance, noted that a white cloth was inserted into this liquid and protruded from the top of the bottle. I recognized the device as incendiary explosive device commonly referred to as a Molotov cocktail. In plain view on the floor of the truck cab (on the passenger's side) I observed two brass padlocks which appeared similar to the type described by PacBell and PG & E representatives as having been used to secure the utility boxes involved in the arson incident on Devlin Road.

I immediately secured the area and contacted Napa Sheriff's Department Det. Sgt. E. Lyeria, who authorized the call-out of Sgt. J. Robertson and Dep. C. Perry (hazardous device technicians with the Napa County Sheriff's Department) to respond to that location. In addition, CDF investigator Capt. D. Edelman responded, along with CDF personnel for the safe

removal and storage of the materials. (For further information regarding the items seized from the bed of the pick-up truck, refer to the supplemental reports prepared by Det. J. Steiner and Sgt. J. Robertson.)

Det. Steiner seized and impounded the vehicle under §22655.5(b) CVC, and the vehicle was towed to the Napa County Sheriff's caged lot pending issuance of a Search Warrant.

RECOMMENDATION

Case status: Pending issuance of Search Warrant for vehicle.

NAPA COUNTY SHERIFF'S DEPARTMENT
INVESTIGATIONS BUREAU
1125 THIRD STREET, NAPA, CA 94559

Case: 98-1692

NAT CODE: PAGE 1 OF 1

INCIDENT/CRIME CLASSIFICATION

REPORT AREA

TIME LOCATION OF OCCURRENCE:
538 Brown Street, Apt. #6, Napa

CODE:
Suspect

NAME, LAST, FIRST, MIDDLE (FIRM OF BUSINESS):
Mark James Knight

ANCILLARY PROBATION SEARCH

On June 16, 1998, at 1600 hrs., Det. J. Donaldson and I responded to 538 Brown Street, Apt. #6, the residence of Mark Knight in order to conduct a follow-up probation search of that residence for items of potential evidence that may have been overlooked or unknown to us on the day of original probation search.

When we arrived at the residence we contacted a female identified as Mark Knight's girlfriend, Kathy Brown, inside the apartment. Ms. Brown was in the process of packing items belonging to Mark Knight, who had been advised that he was no longer welcome at the Brown Street address.

We advised Brown of the purpose of our return and she allowed us entry, stating that she knew Mark was still in custody. Brown said she had spoken with him recently and he identified two (2) items that she said he had told her did not belong to him and that he no longer wished to possess them. These items were identified as an overhead photographic blueprint of the Hatt Building (and the Napa River adjacent to it), and a white photographic envelope containing numerous pictures that I (visually) identified as being of the Napa River adjacent to the Hatt Building and of a paddle-wheel boat that I (visually) identified as the former 'Petaluma Queen'(now known as 'Grand Romance').

In addition to the above items, two (2) pairs of shoes, identified by Brown as belonging to Mark Knight, and a 1-gallon metal can containing acetone were removed from the residence.

All of the above items were confiscated and booked into evidence at the Napa County Sheriff's Department. The blueprint and photographs were subsequently identified by employees of the Hatt Market as having been stolen in prior burglary. (For further information, refer to Det. P. Valente's supplemental report). The shoes were booked into evidence with a request for comparison to shoe prints recovered from a commercial burglary (see NSO Case #98-1177).

RECOMMENDATION

Case closed by arrest. Refer copy of report to B. Tong of the District Attorney for evaluation and charges of §496 P.C. against suspect Mark Knight.

STATEMENT OF PROBABLE CAUSE

Your Affiant, Detective Todd Hancock, has been involved in law enforcement since 1983, initially as a law enforcement officer with the United States Air Force and since 1989 with the Napa County Sheriff's Department. Your Affiant has attended the Santa Rosa Police Academy and received formal instruction in specific investigative procedures and techniques and is a graduate of the Robert Pressley Institute of Criminal Investigations. Your Affiant's assignments have included Patrol, Boat Patrol, S.W.A.T., DARE, and is currently a Field Training Officer.

Your Affiant's current assignment is with the Property Section in the Investigations Division. Your Affiant has investigated hundreds of burglaries and thefts, including residential, commercial and vehicle. Your Affiant has arrested numerous persons for grand thefts and burglaries, petty theft and other property crimes. Your Affiant has located and recovered property taken in numerous burglaries. Your Affiant has received formal training from experienced investigations in the Investigations and Patrol Divisions at the Napa County Sheriff's Department and the United States Air Force.

Your Affiant has interviewed many admitted burglars and thieves and has questioned them regarding the manner in which they commit crimes, transport and dispose of stolen property. Your Affiant is very familiar with the crimes burglary and theft, and the ways they are committed in the County of Napa. Your Affiant has investigated numerous crimes against persons, including battery, assault with a deadly weapon, rape

and robbery, and has arrested persons for the above-listed crimes.

Your Affiant has formal training and experience in the preservation of crime scenes and the collection of evidence, as well as assisting in search and arrest warrants of various premises and persons. Your Affiant has received formal training at the Santa Rosa Police Academy regarding the investigation of rape, sexual assault and child abuse, and other related offenses, and informal training on the above at the Napa County Sheriff's Department Patrol Division, and has investigated several sexual crime cases. Your Affiant has received specialized training in the investigation and forensic examination of computers and high technology crime, and is familiar with computer crime and how computers and data storage devices are used in the commission of crimes and the documentation of criminal activity.

Your Affiant is involved in a long-standing investigation involving the vandalism of and arson of Pacific Gas & Electric facilities dating back to 1996, and includes dozens of reported incidents.

For example, numerous incidents have taken place in which sections of chain (or rebar) were thrown onto transformers, causing short-circuits and eliminating power for thousands of subscribers throughout Napa County. Switches at various gas locations have been damaged and chains to fenced facilities have been cut. Beginning in December of 1997, in a series of five (5) incidents, guy wires on power poles were intentionally sawed through or cut with bolt cutters.

The most recent incident occurred in the early morning hours of June 1, 1998. A power transformer located on Devlin Road and servicing the Napa County Airport facilities was pried open and an adjacent Pacific Bell truck line controlled environment vault (CEV) was also pried open. An incendiary device was utilized to ignite a fire within the Pacific Bell controlled environment vault, causing approximately 1.5 million dollars ($1,500,000) in damage and eliminating telephone service for thousands of customers throughout the airport and industrial complex.

Your Affiant has learned from the California Department of Forestry arson investigators that a flammable liquid, possibly a gasoline mixture was utilized in the arson at the Pacific Bell CEV on Devlin Road. Your Affiant knows that several brass padlocks were pried from the Pacific Gas & Electric box and the Pacific Bell box prior to the arson and were not located on the scene.

During the investigation of the various P G & E vandalisms, Your Affiant has developed information indicating that on numerous occasions the vandalisms and arson events have occurred within one or two days of scheduled Court appearance dates of a subject known to Your Affiant and identified as Mark James Knight. Your Affiant knows that on Friday, May 29, 1998, Mark Knight had a Court appearance date, at which he was informed that he be required to turn himself in for a 90 day remand, as of July 3, 1998.

Your Affiant knows that Mark Knight has been arrested for theft of P G & E services and is also known to have been in possession of explosives and bomb-manufacturing materials.

Your Affiant knows that Mark Knight is a friend and frequent associate of a subject known to Your Affiant and identified as Stephen Andrew Simoneau and that on May 24, 1998, Mark Knight and Stephen Simoneau were stopped near a main Pacific Gas & Electric gas line by an on-duty Napa County Sheriff's Deputy and had no reasonable explanation for their presence in that area.

Your Affiant knows that, during the field interview, numerous pipes and chains were observed within the bed of the pick-up truck, further identified as a 1990 Toyota pick-up truck, California license 4C53487, registered to Steve Simoneau.

Your Affiant knows that Mark James Knight is currently on summary probation for Health & Safety Code violations and is required to submit to search of his person, property, place of residence, and vehicle, with or without a Search Warrant or reasonable cause at any time of day.

Your Affiant also knows that Mark Knight lives at 538 Brown Street, Apartment #6, in the City of Napa. Your Affiant knows that Stephen Simoneau is a frequent visitor at that address and spends extensive periods of time in Mark Knight's apartment in Knight's company and that the vehicle owned and driven by Stephen Simoneau is frequently seen parked adjacent to the multi-plex.

On June 2, 1998, a surveillance on 538 Brown Street was established. At approximately 0145 hrs. on June 3, 1998, Your Affiant observed the red Toyota pick-up truck owned by Stephen Simoneau pull up to the apartment complex. Your Affiant observed a subject

that I recognized as Stephen Simoneau exit the driver' seat and a subject I recognized as Mark Knight exit the passenger's seat. Both subjects removed various items of property from the bed of the pick-up truck and entered the doorway leading to Apartment #6 where they remained for a period of time.

At approximately 0310 hrs. Your Affiant observed Simoneau leave the apartment complex and approach his vehicle with numerous objects carried in his arms. These objects appeared to be cylindrical, approximately three (3) feet in length and wrapped in a covering. Your Affiant observed Simoneau approach the bed of his truck, remove a smaller jar-shaped object and place it within the bed of his truck. Your Affiant then observed Simoneau approach the riverbank located directly across the street from the apartment complex and leave Your Affiant's line of sight for approximately 20 seconds. Your Affiant heard three (3) distinct 'splash' sounds during the time that Simoneau was out of Your Affiant's sight.

Your Affiant then observed Simoneau re-enter my line of sight, walking toward his vehicle with nothing in his arms. Your Affiant then observed Simoneau remove an object described as a glass jar and wipe it with a white towel or tee shirt. Your Affiant then observed Simoneau replace the object in the rear of the pick-up truck and throw the towel or tee shirt into the bed of the pick-up truck.

Your Affiant observed Simoneau enter the driver's side of the pick-up and start the truck. Your Affiant then followed Simoneau out of the city limits of Napa on Coombsville Road and observed Simoneau turn onto a driveway located at 5150 Wild Horse Valley Road.

Your Affiant requested patrol response and Simoneau's vehicle was subsequently located approximately 40 yards north of the driveway, parked in the middle of the driveway. Your Affiant observed that the vehicle's lights were off, the doors were locked and there was no one in or near the vehicle. A subsequent search of the area could not locate Simoneau.

Your Affiant was informed by responding deputies that residents nearby were contacted and questioned regarding Simoneau's presence. Your Affiant learned that Simoneau was known in the area for doing "odd jobs" and, at times, spent the night in the cab of his pick-up truck nearby.

Your Affiant observed within plain sight in the rear of the pick-up truck an item that Your Affiant identified by sight as consistent with a gasoline incendiary device, commonly known a 'Molotov Cocktail'. Your Affiant observed the noticeable smell of gasoline emanating from the clear bottle which contained a cloudy liquid and a piece of white cloth dipped into the liquid and protruding from the top of the bottle.

Also in plain view in the bed of the pick-up truck Your Affiant observed chains similar to those used to destroy Pacific Gas & electric transformers, a chain pole device with what appeared to be blue paint transferred onto the hook and other devices, unidentifiable by Your Affiant.

An additional gas can and padlocks were observed in the bed of the pick-up truck. In plain view on the floorboard on the passenger's side were two brass padlocks that appeared to have recently been damaged. These padlocks appeared to be of the type described as

having been removed from the P G & E and Pacific Bell boxes located on Devlin Road.

Your Affiant knows that an explosives expert from the California Department of Forestry was called and responded, recovering numerous explosives and incendiary devices from the bed of the pick-up truck.

Your Affiant conducted a probation search of Mark Knight's residence, located at 538 Brown Street, Apartment #6, in Napa, at 0800 hrs. on June 3, 1998. Your Affiant located numerous items of drug paraphernalia in addition to the above items utilized in the manufacture of destructive devices, to wit, detonation cord, tracer ammunition, machine gun ammunition, chemicals and instruction manuals for the manufacture of destruction devices were located within the residence. Your Affiant also located within the dwelling, identified as being solely occupied by Mark Knight, a brass padlock engraved with the letters "P G & E".

Based upon the above described evidence, Your Affiant believes that additional evidence of explosives manufacturing and evidence of the aforementioned crimes of arson and vandalism will be located within the vehicle. Your Affiant knows that the vehicle was impounded and removed to the Napa County Sheriff's Department locked cage.

Your Affiant therefore respectfully requests that a Search Warrant be issued.

PROBATION ORDER

MUNICIPAL COURT FOR
THE COUNTY OF NAPA
STATE OF CALIFORNIA

NMC NO. CR33859

8702516-02

PROB. NO. _____

THE PEOPLE OF THE STATE OF CALIFORNIA
VS

Mark James Knights

DEFENDANT

☑ SUMMARY PROBATION

☐ FORMAL PROBATION

DOB 11/28/64

VIOLATION DATE 1/15/98

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED OF A MISDEMEANOR VIOLATION OF

SECTION 11550(a) H&S IS HEREBY ORDERED: (APPLICABLE ITEMS CHECKED)

TERM OF PROBATION:

☑ Imposition of sentence is suspended and the defendant is granted probation for 3 year(s) ☑ summary ☐ formal. If formal probation is granted, it is ordered that defendant report to the Probation Department. Obey all the directives of the Probation Officer and report as directed.

☐ Probation modified/reinstated. Original terms and conditions in full force and effect except as amended herein this date.

CONDITIONS OF PROBATION: 8:00 AM. - C

1. ☑ Be confined to the custody of the Department of Corrections.
   - ☑ For 90 days commencing August 3, 1998.
   - ☐ _____ days may be served on the County Work Program with consent of the Director of Corrections. Call Community Justice Program for appointment within 5 days (see (1) on reverse)
   - ☐ For _____ weekends commencing _____ AM/PM
   - ☐ Time in custody (consecutive) (concurrent) to _____
   - ☐ Report to Department of Corrections immediately to arrange surrender date.
2. ☐ Pay a fine of $_____ includes penalty assessments or $_____ with proof of _____.
   - ☐ To Central Collections (see (11) on reverse)
   - ☐ Fine to be paid from Bail:

   Bail ☐ Exonerated.
   - ☐ Forfeiture set aside.
   - ☐ Other _____
3. ☑ Make restitution in the sum of $ 100= Victim Fund
   - ☐ Payable through Central Collections (see (11) on reverso) by 6/1/98
   - ☐ Payable in amount and manner prescribed by the Probation Department. at Front Counter
4. ☑ Violate no same or similar laws.
5. ☑ Obey all laws.
6. ☐ Commence and continue education, psychology, psychiatric, alcohol counseling or other rehabilitation program as prescribed by the Probation Officer and not leave or terminate contact with any such program without his/her permission.
7. ☐ Totally abstain from the use of alcohol.
8. ☑ Submit to drug, narcotic or alcohol use detection test as directed by probation officer or any peace officer.
9. ☑ Submit his/her person, property, place of residence, vehicle, personal effects, to search at anytime, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer.
10. ☐ Not drive a motor vehicle unless properly licensed by State of California to do so.
11. ☐ Maintain minimum vehicular insurance as required by state law.
12. ☑ Other conditions: _____

UPON SATISFACTORY COMPLETION OF PROBATION YOU MAY APPLY TO THE COURT TO HAVE YOUR CONVICTION SET ASIDE PURSUANT TO SECTION 1203.4 OF THE PENAL CODE. I HAVE RECEIVED A COPY, READ AND UNDERSTAND THE ABOVE TERMS AND CONDITIONS OF PROBATION AND AGREE TO ABIDE BY SAME.

X _____
RECEIPT OF COPY ACKNOWLEDGED/DEF. SIGNATURE

2518119
TELEPHONE

A 538 Brown St Apt 6
HOME ADDRESS/CITY/STATE

C3543430 567-92-3121
D.L. NO. SOCIAL SECURITY NO.

I CERTIFY THE FOREGOING IS A TRUE COPY OF THE JUDGMENT RENDERED ON THE ABOVE DATE BY THE NAMED JUDGE.

JANICE F. NORTON
COURT EXECUTIVE OFFICER

BY _____, DEPUTY

_____ 5/29/98
JUDGE DATE

DISTRIBUTION: DEF DA PROB CORR COM. JUS. PRG. ARR. AGENCY NSO OTHER JR

SM 3/92 PROBATION ORDER

BEST AVAILABLE COPY